

**FILED**

JUL - 5 2005

CLERK, U.S. DISTRICT COURT  
 EASTERN DISTRICT OF CALIFORNIA  
 BY \_\_\_\_\_ DEPUTY CLERK



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8 IN THE UNITED STATES DISTRICT COURT  
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10  
 11 UNITED STATES OF AMERICA, ) CR. NO. S-04-0402 DAD  
 12 Plaintiff, ) MEMORANDUM OF PLEA AGREEMENT  
 13 v. ) PURSUANT TO RULE 11(c)(1)(B)  
 14 PAT SESSION, ) OF THE FEDERAL RULES OF  
 15 Defendant. ) CRIMINAL PROCEDURE  
 16  
 DATE: July 5, 2005  
 TIME: 10:00 a.m.  
 JUDGE: Hon. Dale A. Drozd

17 Pursuant to Rule 11(c)(1)(B) of the Federal Rules of  
 18 Criminal Procedure, the United States of America, by and through  
 19 its undersigned attorney, and the defendant, PAT SESSION, by and  
 20 through her attorney, Dennis Waks, enter into the following plea  
 21 agreement:

22 1. The defendant agrees to plead guilty to Count One of the  
 23 Superseding Information filed on November 4, 2004, charging her  
 24 with Unauthorized Access to a Computer, in violation of Title 18,  
 25 United States Code, Section 1030(a)(2)(B), a misdemeanor. The  
 26 defendant agrees that she is guilty as charged in Count One, and  
 27 agrees that the facts set forth in the Factual Basis attached  
 28 hereto as Exhibit A are accurate.

2. In exchange for the defendant's plea of guilty, the United States and the defendant jointly agree as follows:

- a. This matter shall be referred to the United States Probation Office for a pre-sentence report;
- b. The defendant shall pay a \$500.00 fine;
- c. The defendant shall pay a \$25.00 special assessment;
- d. The government will not seek a term of incarceration as long as the defendant's guideline range as determined by Probation is 0-6 months;
- e. The defendant shall complete 75 hours of community service;
- f. The defendant shall serve a term of probation, which will terminate upon payment of the fine and completion of the community service; and,
- g. At the time of judgment and sentencing, the United States will move to dismiss Counts Two through Thirty-One.

3. The defendant understands that for her conviction under 18 U.S.C. § 1030(a)(2)(B), a misdemeanor, the Court, in its discretion, can impose a maximum sentence of one year incarceration and a fine of not more than \$100,000. The Court must also impose a \$25.00 special assessment.

24       4. The defendant understands that the Court is not bound by  
25 this agreement, by the parties' stipulations about the facts of  
26 this case, or by the government's sentencing recommendation and  
27 that she has no right to withdraw her guilty plea if the Court  
28 decides not to accept the sentencing recommendation set forth in

1 this plea agreement.

2       5. The defendant acknowledges that no government  
3 representative, nor anyone else, has made any representations,  
4 promises or other statements concerning the sentence which will  
5 be imposed other than those set forth herein.

6       6. The defendant further understands that by pleading  
7 guilty to the aforementioned offense, she is waiving her rights  
8 to a jury trial; to subpoena witnesses to testify on her behalf;  
9 to confront and cross-examine adverse witnesses; and against  
10 compelled self-incrimination.

11      7. The defendant has been fully informed of and understands  
12 that she has the right to appeal the sentence in this matter. If  
13 the Court imposes the penalty recommended in paragraph two of  
14 this agreement, the defendant agrees to waive her right to appeal  
15 and collaterally attack her guilty plea and sentence.

16      8. By signing this document, the defendant, her counsel,  
17 and the government's attorney acknowledge that the above plea  
18 agreement is properly stated and signifies the entire terms  
19 agreed to by all parties.

20 DATED: July 1, 2005

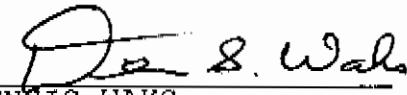
McGREGOR W. SCOTT  
United States Attorney

21 By:

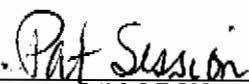
  
THOMAS E. FLYNN  
Assistant U.S. Attorney

25 DATED: July 5, 2005

By:

  
DENNIS WAKS  
Attorney for Defendant

28 DATED: July 5, 2005

  
PAT SESSION  
Defendant

1                   EXHIBIT A: Stipulated Factual Basis

2       If this case were to proceed to trial, the United States  
3 would prove beyond a reasonable doubt that on or about June 29,  
4 2001, and on or about October 2, 2001, at the Appeals Office of  
5 the Internal Revenue Service (IRS) located at 3310 El Camino,  
6 City and County of Sacramento, State and Eastern District of  
7 California, the defendant, an employee of the IRS, knowingly  
8 accessed, without authorization, the Internal Revenue Service's  
9 electronically stored taxpayer records of her neighbors, in  
10 violation of 18 USC 1030(a)(2)(B).

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